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NOMINATION OF JERRY L. CALHOUN

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

NOMINATION OF JERRY L. CALHOUN TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

DECEMBER 4, 1985

Printed for the use of the Committee on Governmental Affairs

ORIGINAL

U.S. GOVERNMENT PRINTING OFFICE

55-454 O WASHINGTON : 1986

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CONTENTS

Page

Opening statement of Chairman Roth 1

WITNESS

WEDNESDAY, DECEMBER 4, 1985

Jerry L. Calhoun, nominee to be a member of the Federal Labor Relations Authority:
- Testimony 2
- Biographical information 3
- Responses to prehearing questions 10

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NOMINATION OF JERRY L. CALHOUN

WEDNESDAY, DECEMBER 4, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Present: Senator Roth.

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman ROTH. This is a hearing on the nomination of Jerry L. Calhoun to be a member of the Federal Labor Relations Authority.

Mr. Calhoun, I would like to again welcome you here, and thank you for your cooperation with both the members of the committee and the staff.

As you well know, the position to which you have been nominated is a very important one. The Federal Labor Relations Authority is responsible for overseeing the labor-management relations program of the Government. This Authority must provide leadership in setting policy, and providing guidance directed both toward promoting good labor-management relations and minimizing disputes between labor and management in the civil service.

You will be joining the Authority at a time, I believe, when it is critically important to try and develop a strong working relationship between labor and management in civil service.

The committee rules require that the committee conduct an inquiry into a nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. I will take the time to briefly recount, for the record, the steps the committee has taken on this nomination prior to our hearing today.

First, Mr. Calhoun has been asked for, and has cooperated in supplying financial statements and detailed information on his education, employment, and professional achievements. He has responded in writing to a number of prehearing questions. Copies of the biographical information and the prehearing question responses will be placed in the record as part of this hearing, and are available upon request. The financial statements are available for inspection by the public in the committee office.

The committee reviewed Mr. Calhoun's biographical and financial information, as well as opinions submitted by the Office of Government Ethics, and the designated ethics official at the Federal Labor Relations Authority. Following that, acting as the chair-

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man of the committee, I reviewed the FBI report prepared on the nominee. That report has also been reviewed by the ranking minority member, Senator Eagleton.

Mr. Calhoun, our committee requires that all nominees give their testimony under oath. Will you please stand and raise your right hand.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Mr. CALHOUN. I do.

Chairman ROTH. Please be seated.

Mr. Calhoun, do you have a prepared statement?

TESTIMONY OF JERRY L. CALHOUN, NOMINEE TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

Mr. CALHOUN. I do not have a prepared statement, but I would like to say that it is an extreme pleasure to appear before you today to seek your advice and your consent for this very important position.

I certainly recognize and understand the importance you and this committee place on the area of labor-management relations and its vital role in the conduct of an effective and efficient Government. I am, therefore, very honored that President Reagan has seen fit to nominate me.

If confirmed, I look forward to working with you and the committee, as well as the Congress in carrying out the duties and fulfilling the responsibilities of the Chairman of the Federal Labor Relations Authority.

Chairman ROTH. Thank you very much for your statement.

As I have already indicated, members of this committee have asked some prehearing policy questions, and your responses will be placed in the record.

I will not repeat those questions, but I will ask you a few additional ones.

[Mr. Calhoun's biographical information and responses to prehearing questions follow:]

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FOR THE UNITED STATES SENATE
COMMITTEE ON GOVERNMENTAL AFFAIRS
BIOGRAPHICAL AND FINANCIAL INFORMATION

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.) Jerry Lee Calhoun

2. Position to which nominated: Member of the Federal Labor Relations Authority

3. Date of nomination: October 17, 1985

4. Address: (List current place of residence and office addresses.)

(Residence)	(Office)
228 9th Street, S.E.	The Pentagon Room 3E808
Washington, D.C. 20003	Washington, D.C. 20301-4000

5. Date and place of birth: September 9, 1943; Ludlow, Mississippi

6. Marital status: (Include maiden names of wife or husband's name.)
Divorced (former spouse: Robin C. Ackerley)

7. Names and ages of children: Shawn Patrick Calhoun 21 years
Hanni Elizabeth Calhoun 19 years

8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.

Name of Institution	Dates Attended	Degree & Date Received	
Garfield High School	9/58 to 6/61	Diploma	6/61
Olympic College	9/61 to 6/63	n/a	
Seattle University	9/63 to 6/67	B.A.	6/67
Arizona State Univ.	9/71 to 6/72	n/a	
Univ. of Washington	8/74 to 6/75	M.A.	6/75
Univ. of Michigan	6/79 to 8/79	Cert.	8/79
Stanford Univ.	6/80 to 7/80	Cert.	7/80

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9. Employment Record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.

Employer	Title	Dates	Location
Department of Defense	Acting Asst Secretary of Defense (Force Management & Personnel)	8/85 to Present	Washington DC
Department of Defense	Principal Deputy Asst Secretary of Defense (Manpower, Installations and Logistics)	7/83 to 8/85	Washington DC
Department of Defense	Deputy Asst Secretary (Civilian Personnel Policy & Requirements)	8/81 to 7/83	Washington DC
The Boeing Company	Manager, Industrial Relations	1/78 to 8/81	Seattle WA
Univ. of Washington	Instructor, Personnel Mgmt/Labor Relations	9/73 to 12/75	Seattle WA
Beoing Computer Services	Manager, Workforce Administration & Subsidiary Relations	1/73 to 1/78	Seattle WA
The Urban League	Director, National Manpower Systems	6/71 to 12/72	Phoenix AZ
The City of Phoenix	Personnel Specialist	6/70 to 6/71	Phoenix AZ
Clairol, Inc.	Manager, Management Services	6/68 to 6/70	New York NY
The Boeing Co.	Supervisor, Industrial Relations	5/65 to 6/68	Seattle WA

10. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.

ANSWER: None

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11. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, education or other institution.

Youth Services Inc., Bellevue, Washington	Member, Board of Directors
Educational Leadership Assoc., Washington, D.C.	Member, Board of Directors
Phoenix Organization Industrialization Center	Member, Board of Directors
Maricopa County Legal Aid Society, Arizona	Member, Board of Directors

12. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.

Seattle University Alumni Associaton

University of Washington Alumni Association

Stanford Alumni Association

One Percent for Art, Seattle, Washington

Woodland Park Zoological Society, Seattle, Washington

Smithsonian Institution, Washington, D.C.

National Geographic Society, Washington, D.C.

Black Leadership Council, Seattle, Washington

Industrial Relations Research Association

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

ANSWER: N/A

(b) List all memberships and offices held in and services rendered to all political parties or election committees during last 10 years.

ANSWER: Worked as a Reagan-Bush Precinct worker in 1980. Seventh District, Seattle, Washington.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

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ANSWER: 1985 - $300 National Republican Congressional Committee Victory Fund
$125 Campaigner membership

$20 American Conservative Union

1984 - $375 National Republican Congressional GOP Victory Fund Sponsor

$500 Republican National Committee 500 Club

1983 - $250 National Republican Congressional Committee

1982 - $250 National Republican Congressional Committee

$150 Republican National Committee

Note: Do not have records of contributions prior to 1982. Contributions were made to the campaigns of Washington State Republican candidates for local and National office.

14. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

ANSWER: None

15. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

ANSWER: None

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

ANSWER: None

17. Selection:

(a) Do you know why you were chosen for this nomination by the President?

ANSWER: I believe I was nominated based on my background and professional experience as well as my past support and service to the Republican Party and the Reagan Administration.

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(b) What do you believe in your background or employment experience affirmatively qualified you for this particular appointment?

ANSWER: My experience as a practitioner and teacher in the area of labor-management relations will allow me to bring an informed perspective to the vital area of Federal labor-management relations. If confirmed and designated Chairman, this experience will allow me to provide effective leadership to the Authority. For the past four years, I have been responsible for human resource management to include labor management relations for a workforce of one and one-half million employees. To deal with the very complex issues associated with this workforce I was required to be an effective manager, an informed manager, and competent in a variety of subject areas. As a result of this experience and my keen interest in the issues appropriate to the Authority, I feel I am well suited for this appointment.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

ANSWER: Yes

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

ANSWER: No

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

ANSWER: No

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

ANSWER: No

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

ANSWER: Yes

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C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

ANSWER: None

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

ANSWER: None

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

ANSWER: None

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

ANSWER: While serving as Acting Assistant Secretary of Defense (Force Management and Personnel), Principal Deputy Assistant Secretary of Defense (Manpower, Installations and Logistics), and Deputy Assistant Secretary of Defense (Civilian Personnel Policy and Requirements), I have testified before various Defense Oversight Subcommittees and Full Committees.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

ANSWER: If any conflicts of interest arise, I will deal with such questions openly. I would immediately disqualify myself on any matters constituting such a conflict.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any legal impediments to your serving in this position?

ANSWER: Yes

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D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

ANSWER: No

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

ANSWER: I was summoned to court in 1965 regarding the behavior of a group of youngsters I was supervising while employed by the City of Seattle Parks Department. One of the youngsters under my supervision had an altercation with another youth on a visiting softball team. The parent of the visiting youth alleged that I contributed to the delinquent act because I did not prevent the altercation. The matter was dismissed by Judge Charles Z. Smith, Seattle Municipal Court.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation?

If so, provide details.

ANSWER: No

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

ANSWER: No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

ANSWER: None

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PREHEARING QUESTIONS FOR JERRY LEE CALHOUN

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1. Is there any issue currently under consideration by the Federal Labor Relations Authority from which you have to disqualify yourself? If so, please explain.

Answer 1. No.

Question 2. How were you selected to be nominated to serve as a Member of the Federal Labor Relations Authority? Were any conditions, expressed or implied, attached to your nomination?

Answer 2. It is my impression that the Senior White House staff approved and submitted my name to the President for nomination as a Member of the Federal Labor Relations Authority. No conditions were attached to my nomination.

Question 3. Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as a Member of the Federal Labor Relations Authority? If so, please describe these commitments.

Answer 3. No.

Question 4. Why did you take this appointment to be a Member of the Federal Labor Relations Authority?

Answer 4. It is an extraordinary honor to be selected for a Presidential appointment. In addition, based on my industry experience and that as a teacher, coupled with my keen interest in the area of labor-management relations, I feel I will be able to make a substantial contribution as a Member of the Authority.

Question 5. Why do you feel that you are particularly well qualified to serve in this position?

Answer 5. I feel that my background, employment experience, and my experience as a teacher in the area of human resource systems and labor relations makes me particularly well qualified for this position.

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II. THE FEDERAL LABOR RELATIONS AUTHORITY

Question 1. What do you believe to be the role and responsibilities of the Federal Labor Relations Authority?

Answer 1. I believe the role of the Federal Labor Relations Authority is to serve as a neutral party in the settlement of disputes that arise between unions, employees, and agencies on matters outlined in the Federal Services Labor Management Relations Statute. In addition to having an effective program, the Authority must provide the necessary leadership in establishing policies and providing guidance in interpreting the Statute.

Question 2. What are the Federal Labor Relations Authority's most important functions?

Answer 2. The most important functions of the Federal Labor Relations Authority include the adjudication of labor-management disputes consistent with the provisions of the Federal Service Labor Managment Relations Statute. In addition the Authority is responsible for deciding appeals on negotiability issues; exceptions to arbitration awards; appropriate limits for the purposes of exclusive recognition; eligibility of labor organizations for national consultation rights; and, unfair labor practice complaints.

Question 3. What do you feel are the most important functions of the position to which you have been nominated?

Answer 3. As a member of the Authority I feel my most important functions will be to review cases before the Authority and rendering fair, balanced, and impartial decisions. If designated Chairman of the Authority, my major priorities will include, but will not be limited to, the effective and efficient operation of the agency.

Question 4. How do you see the relationship between the Federal Labor Relations Authority and (a) the Office of Personnel Management and (b) the Merit Systems Protection Board?

Answer 4. The Office of Personnel Management issues guidelines, regulations and rules for the Executive Branch appropriate to all federal employees. There are instances where the Federal Labor Relations Authority may have to decide whether such rules, guidelines or regulations or the conduct of managers are consistent with the letter or intent of the Statute. Accordingly, it seems to me that it would be desirable to maintain somewhat of an arms-length relationship between the Office of Personnel Management and the Authority.

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With respect to the Merit Systems Protection Board, its role and that of the Authority appear complementary. There may be cases, mainly certain adverse action cases, where jurisdiction rests with the Merit Systems Protection Board. In others the Authority may have jurisdiction. In rare cases jurisdiction may not be absolutely clear without rigorous review. Therefore, it would appear that on-going coordination and communication between the Merit Systems Protection Board and the Authority is essential.

Question 5. How do you plan to ensure consistency between the decisions of the Federal Labor Relations Authority and the decisions of the Merit Systems Protection Board in any cases which involve both, such as either allegations of unfair labor practices or discrimination?

Answer 5. One strategy could be to insure on-going review of Merit Systems Protection Board decisions by the Authority and Authority decisions by the Merit Systems Protection Board. Also effort should be made by the Merit Systems Protection Board and the Authority to effect as much coordination and communciation as appropriate and practicable.

Question 6. Do you feel that labor-management relations in the Federal government should resemble as closely as possible the practices and precedents of those in the private sector? Are there important differences in the two?

Answer 6. I believe that labor-management relations in the Federal government should resemble the practices and some of the precedents established in the private sector insofar as the Federal Services Labor Management Relations Statute was modeled after the National Labor Relations Act. However, I believe there are some very important differences.

The National Labor Relations Act was set up to make sure that disputes between labor and management are fairly conducted. The National Labor Relations Act does not however prescribe substantive terms and conditions of employment as does the Federal Services Labor Management Relations Statute in a number of instances. For example, substantive provisions not included in the National Labor Relations Act, but mandated by the Federal Services Labor Management Relations Statute include but are not limited to: 1) provisions for official time for contract negotiations for union representatives; 2) a very detailed and strong management rights clause (5 U.S. 57106 (Supp. 111.1979)); 3) strong prescription against work stoppages or slowdowns; 4) exclusion from bargaining of major employment matters such as wages, health insurance, life insurance, retirement, leave, holidays, and job classification which are prescribed by law and regulation; and 5) the Statute defines conditions of employment (5 U.S.C. 7103(a)(14) (Supp. 111.1979).

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III. THE CIVIL SERVICE REFORM ACT

Question 1. What do you feel are the most important principles of the Civil Service Reform Act?

Answer 1. The most important principles of the Civil Service Reform Act include pay-for-performance and the establishment of the concept of merit as the controlling consideration in all personnel decisions. In addition for the first time employee safeguards were codified in law. Further, the principle of effective and efficient government is a major underpinning of the Act.

Question 2. Do you feel that the Civil Service Reform Act offers too much, too little, or the appropriate amount of protection for the Federal employee?

Answer 2. I believe the Civil Service Reform Act offers the appropriate amount of protection to Federal employees. All of the necessary machinery is present; however, I would comment that there could be some improvement in the timeliness of managing some cases through to to resolution.

Question 3. Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

Answer 3. At this time, I do not feel there are any particular changes in the Civil Service Reform Act that would be helpful in carrying out the goals of the legislation. I believe all of the necessary tools exist within the Act to fulfill the legislative intent.

IV. RELATIONS WITH CONGRESS

Question 1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Answer 1. If confirmed, I agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress.

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Chairman ROTH. Mr. Calhoun, are you aware of anything in your background which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. CALHOUN. No, I am not, sir. It might be helpful to know, however, that in my previous positions with the Department of Defense, first as Deputy Assistant Secretary of Defense for Civilian Personnel, Policy, and Requirements, and as principal Deputy for Manpower, Installations and Logistics, and currently as Acting Assistant Secretary for Force Management and Personnel, I have overseen the labor relations program within the Defense Department.

In these roles, I basically oversaw and gave direction to the Federal service labor-management statute within the Department. The important point to make here is that I was not involved in any of the operational aspects, any of the settlement issues, or any specific cases. My role was simply that of a corporate overseer with respect to the labor-management program.

Chairman ROTH. As I understand it, from what you are saying, the Defense Department, and the various services, are parties to a number of cases before the FLRA. As you said, you have acted as Deputy Assistant Secretary, and in other capacities since 1981, but you do not believe there is a likelihood of conflict of interest because of the general nature of your duties at the Defense Department, and your lack of involvement in specific cases. Is that correct?

Mr. CALHOUN. That is correct.

Chairman ROTH. I would also note that the committee has received letters from the Office of Government Ethics, and the designated ethics official at the Federal Labor Relations Authority, each of which found no conflict of interest.

Let me proceed. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. CALHOUN. No, sir, I do not.

Chairman ROTH. If you are confirmed, do you agree without reservation to appear and testify before any duly constituted committee of the Congress?

Mr. CALHOUN. Yes, I do.

Chairman ROTH. Mr. Calhoun, what do you believe in your background or services employment particularly qualifies you for this appointment?

Mr. CALHOUN. I believe my experience as a practitioner in the area of labor-management relations over the past 14 years, coupled with my experience as an educator, a teacher at the university level in this area, will allow me to bring an informed perspective to the area of labor-management relations in the Federal Government.

I also have a very keen interest in the subject area. It is one that I have pursued and kept abreast of over the years, as well as during the time that I have served in the Defense Department.

Chairman ROTH. I believe these are all the questions I have for you, Mr. Calhoun. I want to thank you for appearing before the

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committee. The committee will be taking action on your nomination in the very near future.

Thank you and good luck.

Mr. CALHOUN. Thank you very much.

Chairman ROTH. The committee is in recess.

[Whereupon, at 10:14 a.m., the committee recessed to reconvene at the call of the Chair.]

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